IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 15974 of 2007(B)

PETITIONER:

M/S.ARAVIND BRANDS LTD.,
CHITTOOR ROAD, ERNAKULAM, KOCHI-18,
REPRESENTED BY ABILASH M.T., ACCOUNTS MANAGER.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SRI.MAHESH V.MENON

RESPONDENTS:
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1. ASST. COMMISSIONER OF COMMERCIAL TAXES (ASSMT), SPECIAL CIRCLE-I, ERNAKULAM.

2. DEPUTY COMMISSIONER OF COMMERCIAL TAXES, (APPEALS), ERNAKULAM.

3. INSPECTING ASST.COMMISSIONER, DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.

BY G.P. SRI. MOHAMMED RAFFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 15974 OF 2007

Dated this the 28th day of May, 2007

JUDGMENT

Heard counsel for the petitioner and Government Pleader. The order under challenge is Ext.P10 whereunder the appellate authority has ordered payment of one third of the arrears due for 2002-03 to 2004-05 as a condition for stay against recovery of sales tax, pending disposal of the appeals. In the normal course, this Court cannot modify the stay order without deciding the merits of the case, which if done will make the appeal infructuous. However, it is seen that for the two years, 2003-04, and 2004-05, exparte orders are issued on account of failure of petitioner's chartered accountant to appear. Counsel for the petitioner submitted that chartered accountant was seriously sick and could not appear. In the circumstances, I feel some modification to Ext.P10 is called for without going into the merits of the case. W.P. is accordingly disposed of upholding the order of payment of one third of the arrears for 2002-03, but reducing payment for 2003-04 and 2004-05 from one third to 25% as a condition for stay. Petitioner is granted

three weeks time from today to make payment as above. The appellate authority is directed to take up the appeals out of turn and dispose of the same within two months from the date of making payment as above. Since payment as above itself is substantial, there will be direction to the assessing officer to accept security bond executed by the Directors of the company as sufficient security for balance amount.

(C.N.RAMACHANDRAN NAIR)
Judge